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January 3, 2025

BY ECF

The Honorable Hector Gonzalez
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Hernandez v. Thuy Diep, LLC, No. 1:24-cv-05353-HG

Discovery Status Report

Dear Judge Gonzalez:

Defendant Thúy Diep, LLC submits this discovery status report pursuant to the Court's December 19, 2024 Order, ECF 15.¹

The parties have not exchanged any discovery except that Defendant has served a notice of Plaintiff's deposition together with a request to produce a small number of documents at the deposition. Defendant expects no additional fact discovery will be needed. The deposition is scheduled for January 21, 2025 so that fact discovery can be completed by that date, as the Court's Case Management Plan directs. ECF 11. There are no current discovery disputes.

Defendant intends to present one expert witness in the event the litigation proceeds to expert discovery, to testify that Defendant's website presents no access barriers constraining the use and enjoyment of the website by visually impaired persons. Defendant, however, would like to reserve the right, if necessary, to move in February 2025 to extend the March 24, 2025 expert discovery deadline until 45 days after the pending motion to dismiss is decided or, if the motion is granted, after the Court sustains any amended complaint that may be filed. Defendant makes this request because it is a small business that has expended money and effort to make its website accessible to the visually impaired and feels it should not, in fairness and justice, pay large costs for an expert's report and testimony if the Plaintiff cannot meet threshold standing requirements.

¹ Defendant submits this report alone because I have been unable to successfully coordinate a joint submission with Plaintiff's counsel. Last week, we agreed to meet and confer about a joint letter on Tuesday, December 31. But counsel was unavailable when I called and did not return my voice message. I emailed again yesterday morning, but counsel did not contact me until 3:20 p.m. today. He said he would prepare his part of a joint letter and send it to me by 5 p.m. As of 6:10, it did not arrive. Due to other obligations, I was unable to wait any longer to file.

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Alexander H. Schmidt".

Alexander H. Schmidt

cc: Rami Salim, Esq. (by ECF)